

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOEL BELLO,	:
Plaintiff	:
v.	: Case No. 3:07-cv-254-KRG-KAP
DOCTOR ROMEO, MOSHANNON	:
VALLEY CORRECTIONAL CENTER,	:
<u>et al.</u> ,	:
Defendants	:

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

The Magistrate Judge filed a Report and Recommendation on December 3, 2008, docket no. 30, recommending that defendants' motion to dismiss the complaint, docket no. 17, be granted. The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Plaintiff filed timely objections which, if one interprets them broadly, amend his complaint to allege that Doctor Romeo admitted that surgery was necessary to treat plaintiff's tumor but would not be approved solely for nonmedical reasons, namely cost. docket no. 31-1 at 7. For purposes of this stage of the proceeding, that adequately alleges a claim of deliberate indifference against Doctor Romeo in the treatment of plaintiff's tumor. The balance of the objections is meritless.

Upon de novo review of the record of this matter and the Report and Recommendation, the following order is entered:

AND NOW, this 17th day of December 2008, it is

ORDERED that defendants' motion to dismiss the complaint, docket no. 17, is granted in part and the complaint is dismissed as to defendants Dawson, Zenk, and Cornell Companies. Defendant Romeo shall file an answer to the complaint within twenty days. The Report and Recommendation is adopted in pertinent part as the opinion of the Court.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Kim R. Gibson", written over a horizontal line.

KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice by ECF to counsel of record and by U.S. Mail to:

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P.O. Box 2000
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